

Sec. 17-54. Sanctions and appeals.

The director of the city health department or an authorized representative shall have the authority to enter a business offering body arts services at reasonable times to conduct inspections of conditions relating to the enforcement of the sections of this document or of applicable sections of the Connecticut Public Health Code or applicable sections of this Code.

The department may deny, suspend, or revoke approval of a business or an artist offering tattoo or body piercing or tattoo and body piercing services if the business or the artist has made any material misrepresentation to the department, does not meet or no longer meets, or has a history of noncompliance with the requirements of the applicable sections of this document or of the Connecticut Public Health Code. The department may issue a stop-work order, or institute legal action for injunctive relief, to enforce any provision of this section.

Additionally, the department may impose an administrative fine for the violation of any provision of this document, not to exceed ninety-nine dollars (\$99.00) per day per day for each specified violation. In determining the amount of the administrative fine, the department shall consider the severity of the violation, and the extent to which the provisions of this document or the Connecticut Public Health Code were violated, as well as the good faith efforts of the owner or artist to correct the stated violations.

In the case of a proposal to deny, suspend, or revoke approval of a business or artist providing body arts services, the department shall provide the business or artist with a citation or written notice of the proposed action and the cause for the action. The citation shall describe the procedure for appealing the proposed denial, suspension, or revocation.

The written notice shall be provided by certified mail, return receipt requested, or by hand delivery. If the notice is returned because of failure of delivery, the department shall either send the notice by certified mail to the address listed on the application, or conspicuously post the notice at an entrance of the business. In either case, the notice shall be deemed to have been received on the date it was mailed or posted.

The notice shall state that the business or artist may obtain a hearing under this rule if a written request for a hearing is mailed or hand-delivered to the department's address specified in the notice, within ten (10) days after the affected business or artist receives or is deemed to have received the notice.

Upon receiving a timely hearing request, the department shall schedule a hearing before a board or a hearing officer designated by the director. If the director provides a hearing officer, that officer shall not have participated in any manner in the decision to take the action against the business or artist.

The department shall mail or hand-deliver notice of the date, time, and place of the hearing to the business or artist no less than ten (10) days before the scheduled date. The department may additionally post the notice of hearing at the entrance of the business.

The business or the artist and the department each shall have one (1) opportunity to reschedule the hearing date upon specific request to the other party. Any other postponements of the hearing shall be by agreement of the department, the business or artist, and the hearing officer, if one is designated.

At the hearing, the business or artist shall have the opportunity to present its case orally or in writing. If the department has designated a hearing officer, a member of the department does not have to be present at the hearing.

If the hearing is before a hearing officer, he or she shall prepare a written recommendation as to the validity of the department's action, which shall rest solely on the evidence presented at the hearing and the statutory and regulatory provisions governing the department's action. The hearing officer shall describe the basis for his or her recommendation, but need not prepare a full opinion or formal findings of fact and conclusions of law. The hearing officer shall mail by certified mail, return receipt requested, or hand-deliver the recommendation to the department and to the business or artist, within ten (10) business days following the date of the hearing. Either party may file objections to the recommendation provided that the objections are received by the department within five (5) days of receiving a copy of the recommendation.

After reviewing any timely objections, the director may take additional evidence or approve, modify, or disapprove the recommendation and shall enter an order in the record of department proceedings.

If the department does not receive a timely request for hearing, the director may enter immediately an order as proposed in the notice.

In the case of an immediate suspension of approval for a violation presenting an imminent danger to the public health, the department shall provide the business or artist with written notice of the action, the cause of the action, and the effective date of the action. The written notice shall specify the procedure for appealing the suspension and shall list the address to which a hearing request shall be sent or delivered. The business or artist may appeal the suspension by mailing or hand-delivering a written request for hearing to the address specified in the notice. If a hearing is requested, it shall be heard not later than two (2) business days after the request is received by the department. At the hearing, the business or artist shall have the opportunity to present its case orally or in writing and to confront and cross-examine adverse witnesses. The business or artist may be represented by its counsel, if desired, and may review the case record before the hearing. At the hearing, the director, or an appointed hearing officer, shall determine whether the immediate danger to the public health continues to exist according to the provisions of this document or of the Connecticut Public Health Code.

Following the hearing, the director may render immediately a decision denying, suspending, or revoking approval, or render a decision removing or continuing an approval suspension. The determination or order may be considered and made without publication or advertisement, and may become effective without such publication or advertisement, recording or certifying. An order is not effective until it is recorded in the department's record of its proceedings.

(Ord. No. 4-00, 2-14-00; Ord. No. 13-00, 6-26-00)